

**Remarks**

**I. Claim Rejections under 35 U.S.C. § 103.**

Claims 1-3, 8-16, and 21-30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication US 2003/0005419 (Pieper) in view of *Portable Software Library Optimization*, 2/1998 (Cain). Applicants respectfully traverse.

Claim 1 recites at least the following limitations:

optimizing the software program...wherein an optimization process that is completely independent of the target processor is employed to optimize the software program to generate the resulting first optimized form

(Emphasis Added)

Claims 14 and 31 recite similar limitations. Pieper and Cain do not disclose or suggest the above limitations.

A. Applicants submit that Pieper fails to disclose “optimizing the software program...wherein an optimization process that is completely independent of the target processor is employed to optimize the software program to generate the resulting first optimized form”.

Pieper discloses a technique for inserting memory pre-fetch instructions at appropriate locations in program code for a target machine. *See abstract*. In performing this technique, a compact intermediate form of source code is first processed by optimization processes to generate an optimized expanded intermediate form code. *See paragraph [0030]; see also FIG. 2*. Such optimization processes include a pre-fetch analysis process. *See paragraph [0047]; see also FIG. 4*. In performing the pre-fetch analysis process a target machine model is used. *See paragraph [0062]; see also FIG. 2*. The target machine model supplies the maximum amount of in-flight memory reference that can be executed simultaneously by the target processor. *See paragraph [0062]*. The pre-fetch analysis phase then matches the resources required by the loop to the available target processor memory resources by adjusting pre-fetch distances. *See paragraph [0062]*.

The Examiner asserts that the step of optimizing the software program is taught in Pieper by the optimization processes used to transform the compact intermediate form code into the optimized expanded intermediate form code. *See Office Action*. However, the optimization processes in Pieper

include a pre-fetch analysis process that uses a target machine model that supplies the maximum amount of in-flight memory that can be executed by the target processor. As such, Pieper fails to disclose “optimizing the software program...wherein an optimization process that is completely independent of the target processor is employed to optimize the software program to generate the resulting first optimized form”.

The teachings of Cain do not make up for the deficiency of Pieper, since Cain also does not disclose “optimizing the software program...wherein an optimization process that is completely independent of the target processor is employed to optimize the software program to generate the resulting first optimized form”. Therefore the combination of Pieper and Cain does not teach or suggest “optimizing the software program...wherein an optimization process that is completely independent of the target processor is employed to optimize the software program to generate the resulting first optimized form”

Consequently, for at least these reasons, it is respectfully submitted that claim 1 is allowable over the cited references. For at least this same reasons, independent claims 14 and 31 are likewise allowable over the cited references. For at least these same reasons, the dependent claims that depend from claims 1, 14, and 31 are likewise allowable over the cited references.

## **II. Claim Rejections under 35 U.S.C. § 103(a)**

Claims 4-7 and 17-20 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Pieper in view of Cain and further in view of prior art reference entitled “0-7803-5041-3/99, IEEE” by Kum et al. (hereinafter Kum).

Regardless of whether Kum discloses or suggests the additional limitations as embodied in these rejected claims, Applicants respectfully submit that Pieper, Cain, and Kum cannot be combined to support claim rejections under 35 U.S.C. §103(a) for at least the reasons provided in sub-section I above. Therefore, Applicants respectfully submit that these claims are believed to be allowable over Pieper, Cain, and Kum because Kum fails to cure Pieper and Cain’s deficiencies, and further because the Office Action does not rely on Kum in supporting the basis for rejection of claims 1, 14, and 31 from which these claims respectfully depend.

**CONCLUSION**

If the Examiner has any questions or comments regarding this response, please contact the undersigned at the number listed below.

To the extent that any arguments and disclaimers were presented to distinguish prior art, or for other reasons substantially related to patentability, during the prosecution of any and all parent and related application(s)/patent(s), Applicant(s) hereby explicitly retracts and rescinds any and all such arguments and disclaimers, and respectfully requests that the Examiner re-visit the prior art that such arguments and disclaimers were made to avoid.

The Commissioner is authorized to charge any fees due in connection with the filing of this document to Vista IP Law Group's Deposit Account No. **50-1105**, referencing billing number **00PA339US03**. The Commissioner is authorized to credit any overpayment or to charge any underpayment to Vista IP Law Group's Deposit Account No. **50-1105**, referencing billing number **00PA339US03**.

Respectfully submitted,

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